IN THE HIGH COURT OF JUDICATURE AT BOMBAY

O.O.C.J.

NOTICE OF MOTION NO.2095 OF 2004

IN

SUIT NO.3475 OF 2003

...

Mohammed Salim Abdul Malik ...Plaintiff

v/s.

Smt.Sudharshan Kedarnath Sethi

and Anr. ...Defendants

...

Mr.R.M. Nakhawa i/b Mr.Vasant B. Dhawan for the Plaintiff.

Mr.Bharat Joshi i/b Chandra Naik for Defendant No.1.

...

CORAM: D.K.DESHMUKH, J.

DATED: 24TH JUNE,2005

P.C.:

1. This Notice of Motion is taken out by the Plaintiff. Principal prayer is for appointment of Receiver. The suit filed by the Plaintiff is under Section 6 of the Specific Relief Act. The Plaintiff claims that he was in possession as conductor of business of the suit premises, which is the guest house. The Plaintiff relies on an agreement between the parties.

2. Existence of that agreement is totally denied by the other side. The other side claims that the signature of the Defendant on the agreement is forged.

3. The learned Counsel appearing for the Plaintiff is not able to point out any document which will show that it is the Plaintiff who was in possession of the premises on the date of alleged dispossession. But

the documents that are produced indicate that he was in the premises. The question to be decided is in what capacity. Whether he was in the premises as a Manager of the business or as a conductor of the business.

4. Taking overall view of the matter, therefore, in my opinion, it would not be appropriate to appoint the Receiver. Interest of the Plaintiff can be protected by granting interim injunction restraining the Defendant from transferring the property. Notice of Motion is, therefore, granted in terms of prayer clause (b). Notice of Motion disposed of.

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